

**Before the  
Federal Communications Commission  
Washington, D.C 20554**

In the Matter of	)	
	)	
Federal Preemption of	)	WT 02-100
Anne Arundel County Ordinance	)	DA 02-1044
Regulating Radio Frequency Interference	)	

**Comments of ALLTEL Communications, Inc.**

ALLTEL Communications, Inc. (“ALLTEL”)<sup>1</sup> hereby files its comments in support of the Petition for Declaratory Ruling filed by Cingular Wireless LLC (“Cingular”) that recent amendments to the Anne Arundel County (the “County”) zoning ordinance are preempted under the Communications Act of 1934, as amended (the “Act”).<sup>2</sup>

ALLTEL’s reading of the pertinent case law and statutes squarely supports Cingular’s position that the Commission’s Title III authority vests within it exclusive jurisdiction over radio frequency interference matters (“RFI”).<sup>3</sup> The County, rather than addressing the matter on the merits, has instead opted for a procedural argument asserting that the Commission is without the power to issue the requested ruling, and that the

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<sup>1</sup> ALLTEL, a subsidiary of ALLTEL Corporation, is one of the nation’s leading wireless service providers. Neither ALLTEL nor its affiliates are licensed to provide service in Anne Arundel County. ALLTEL nonetheless files these brief comments in support of the Cingular petition inasmuch as the issues raised go to the heart of the Commission’s jurisdiction and are, consequently, national in scope.

<sup>2</sup> The Cingular petition was filed on April 23, 2002 and supplemented on April 29, 2002. The Commission sought comment on the petition through Public Notice, DA 02-1044 (released May 7, 2002)

<sup>3</sup> See the exhaustive discussion set forth in the Cingular petition at pages 3-8; Cingular Opposition to Motion to Dismiss at pages 3-5.

extent of the Commission's jurisdiction over RFI may only be determined by the courts. But as noted by Cingular in its opposition, the FCC is not powerless in defense of its own jurisdiction and may issue the requested ruling as a matter of course.<sup>4</sup> While the extent of the Commission's jurisdiction over RFI, -- although well settled -- may yet be the subject of a "controversy" before the federal courts, the matter should reach that venue with the County as the moving party, not Cingular. A consistent and unified federal voice on these issues is needed lest carriers be forced to litigate the matter on a county by county basis and experience both the delay and resource drain resulting from repetitive litigation.

ALLTEL supports Cingular's request for a declaratory ruling and requests that it be expeditiously issued by the Commission.

Respectfully submitted,

ALLTEL Communications, Inc.

By: \_\_\_\_\_

Glenn S. Rabin  
Vice President  
Federal Communications Counsel

ALLTEL Corporation  
601 Pennsylvania Avenue, N.W.  
Suite 720  
Washington, D.C. 20004  
(202) 783-3970

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<sup>4</sup> See Cingular Opposition to Motion to Dismiss at pages 8-11.